

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	No. 2:19-00003
)	Judge Trauger
HEATHER L. MARKS)	
HEMAL MEHTA, M.D.)	

**JOINT DEFENSE NOTICE OF UNITED STATES SUPREME COURT RULING IN
LOPER BRIGHT/RELENTLESS AND MOTION TO PERMIT BRIEFING AS
PROPOSED HEREIN**

COME NOW the Defendants, **Heather Marks, N.P.** and **Hemal Mehta, M.D.**, by and through their undersigned counsel, and respectfully: (1) gives Notice that the United States Supreme Court issued its decisions in *Loper Bright Enterprises v. Raimondo* and *Relentless, Inc. v. U.S. Department of Commerce* on June 28, 2024, and, as the defense predicted and premised in its Motion to Dismiss, the United States Supreme Court overturned “*Chevron* deference” and the related *Auer* deference doctrines; (2) gives Notice that there are numerous other newly decided United States Supreme Court decisions that impact the briefing of the issues raised in the Motion to Dismiss, including: *Ohio et al v. EPA*, Nos. 23A349, 23A350, 23A351, 23A384, 2024 U.S. LEXIS 2846 (June 27, 2024); *Snyder v United States*, No. 23-108, 2024 U.S. LEXIS 2843 (June 26, 2024); *Garland v Cargill*, 144 S. Ct. 1613 (2024); and, *SEC v. Jarkesy*, No. 22-859, 2024 U.S. LEXIS 2847 (June 27, 2024); and, (3) moves the Court to permit the defense to file an Amended Motion to Dismiss with separate supporting Amended Memorandum of Law on or before September 3, 2025.

The defense believes that it will be most helpful and efficient for the Court if the defense

amends its existing Motion to Dismiss and supporting Memorandum of Law (D.E. 222, Motion to Dismiss; D.E. 223, Memorandum of Law in Support of Motion to Dismiss) rather than supplementing the filings. By amending, the defense can hone its arguments considering the death of *Chevron* deference and the newly confirmed strict mandates applicable to the Administrative Procedures Act (APA). The amended filings will address other precedent as well and will comprehensively brief why the government has unconstitutionally overreached extra-legislatively criminalizing otherwise authorized prescriber conduct through CFRs and vague references to various guidelines and “expert” opinions.

WHEREFORE, based on the foregoing, Defendants Mehta and Marks jointly request that the Court permit the defense to file an Amended Motion to Dismiss and Amended Memorandum of Law on or before September 3, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent via the Court's electronic filing system, *or*, if not registered, sent U.S. Mail, postage prepaid, to all parties to this action.

this 2nd day of July, 2024.

/s/ Kimberly S. Hodde
KIMBERLY S. HODDE